IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 22388 of 2006(M)

PETITIONER:

FATHIMA, AGED 72,
W/O.ABDUL KHADAR, THALKKATTU HOUSE,
THEKKUMPURAM, CHENDAMANGALAM P.O.,
ERNAKULAM DISTRICT.

BY ADV. SRI.V.A.PRADEEP KUMAR

RESPONDENTS:

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1. DR.MOHANAN,
S/O.KURUPPAN, KALPPURAKKAL HOUSE,
KAIPPAMANGALAM, THRISSUR DISTRICT.

2. JAGEER @ MOHAMMED,
S/O.ABDUL KHADAR, THALAKKATTU HOUSE,
THEKKUMPURAM, CHENDAMANGALAM P.O.,
ERNAKULAM DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.22388/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 - TRUE COPY OF E.P.34/04 IN O.S.279/97 SUBMITTED BEFORE THE MUNSIFF, PARUR.

EXT.P1 – TRUE COPY OF PROCLAMATION SCHEDULE IN OS.279/97 SUBMITTED BEFORE DO. DT.26.10.04.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.22388 OF 2006

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DATED THIS THE 3RD JULY, 2007

J U D G M E N T

This Writ Petition is remaining defective for non-completion of service of notice on the respondents. The 1st respondent is the decree-holder before the court below and it is seen that notice to him is returned stating 'not known'.

2. When this Writ Petition came up for admission, this Court noticed that the prayer was that coercive orders issued by the execution court against the petitioner be kept in abeyance and the petitioner be permitted to remit the decree-debt in six monthly instalments. This Court granted stay of the proceedings in execution only on condition that the petitioner deposits the entire decree-debt within one month from 23.8.2006. Probably, the petitioner has complied with the above condition imposed by this Court. At any rate, I do not find any justification for retaining this Writ Petition on the files of this Court any longer.

The Writ Petition will stand disposed of issuing the following directions:-

The execution court will verify whether the petitioner has liquidated the entire decree-debt within one month from 23.8.2006.

If on verification it is seen that the petitioner has deposited or paid at least 50% of the decree-debt, then the court will hold up coercive process against the petitioner for a further period of two months from today. It is open to the petitioner to settle the issue with the 1st respondent in the meanwhile. At any rate, the order of stay will not continue beyond the period of two months as indicated above.

(PIUS C.KURIAKOSE, JUDGE)

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